

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0747-06
Bill No.: Truly Agreed To and Finally Passed SS for SCS for HCS for HB 163
Subject: Employment Security Unemployment Compensation;
Type: Original
Date: May 2, 2011

Bill Summary: This proposal modifies the law relating to unemployment.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	(\$0 to \$180,810)	\$0	\$0
Total Estimated Net Effect on General Revenue Fund	(\$0 to \$180,810)	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Other State Funds	(\$0 to \$185,934)	\$0	\$0
Special Employment Security Fund	\$1,411,102	\$1,411,102	\$1,411,102
Total Estimated Net Effect on <u>Other</u> State Funds	\$1,225,168	\$1,411,102	\$1,411,102

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Federal Funds	(\$0 to \$53,256)	\$0	\$0
Unemployment Compensation Trust Fund	\$124,600,000	\$124,600,000	\$124,600,000
Total Estimated Net Effect on <u>All</u> Federal Funds	\$124,546,744	\$124,600,000	\$124,600,000

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on FTE	0	0	0

☒ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Section 288.040 Outstanding Penalty

Officials at the **Department of Labor and Industrial Relations (DOLIR)** assume this legislative change proposes that a claimant of unemployment benefits, who previously committed unemployment insurance fraud, would be ineligible until he or she has repaid the fraud penalty.

Overpaid benefits collected from claimants, as well as unemployment taxes paid by employers, are deposited into the unemployment compensation (UC) trust fund. Monies from the trust fund can be used only to pay unemployment benefits. Penalties collected from claimants are deposited in the Special Employment Security Fund, which can be used for administrative expenditures by DOLIR.

In most cases of fraud, claimants owe both overpaid benefits and a penalty. As of January 31, 2011, there were \$104 million in outstanding overpayments and \$23 million in penalties owed. During the year ending January 31, 2011, a total of \$18.5 million in overpayments was recovered. In 2010, the DES collected approximately \$1,000,000 in fraud penalties.

Under existing law, the DES is able to collect overpaid benefits from claimants by offsetting their weekly benefits. In other words, the money that would have been used to pay benefits stays in the trust fund to repay the overpayment. As of January 31, 2011, there were 3,504 individuals with an active unemployment claim who owed penalties totaling \$1,411,102. During January 2011, the average amount of a fraud overpayment identified by the DES was \$1,446.75, which is equivalent to 5.8 weeks of unemployment benefits at the average weekly benefit amount of \$248.13. The proposed legislation would prevent the DES from offsetting an estimated \$5 million in overpaid UI benefits if the claimant has an outstanding UI fraud penalty.

If all 3,504 individuals with an active unemployment claim who owed penalties were denied benefits, as specified by the proposed legislation, the trust fund would be prevented from paying approximately \$16.6 million in benefits, assuming an average duration of 19.1 weeks. This estimate assumes that these claimants would not pay the penalty in order to become eligible for unemployment benefits.

If all 3,504 individuals with an active unemployment claim paid the penalties owed, the Special Employment Security Fund would receive \$1,411,102. However, those individuals that do pay the penalty will then become eligible for benefits, resulting in a savings to the trust fund that is lower than the estimate given above.

ASSUMPTION (continued)

The source of funding to administer this proposal is DOLIR's federal administrative grant. It is anticipated that up to three additional full-time employees (FTEs) would be needed to process appeals and hold appeals hearings for individuals who are determined to be ineligible. It is also anticipated that two FTEs would be needed to process the additional payments and reconsider ineligibility determinations after full penalty restitution has been received. The total cost of the five additional FTEs is \$239,719 in FY2012, \$290,540 in FY2013, and \$293,446 in FY2014. The Division is assuming the staffing needs would be absorbed into DOLIR's existing federal administrative grant.

Section 288.062 Extended Benefits

Officials at the **Department of Labor and Industrial Relations** assume the proposed legislation would allow Missouri to continue to participate in the 100% federal reimbursement of extended benefits (EB) paid to most claimants. Claimants who exhaust all regular and Emergency Unemployment Compensation benefits and who are determined eligible could receive up to an additional 20 weeks of 100% federally funded extended benefits. Extended benefits paid to individuals who work for state and local government entities and Indian Tribes are not subject to federal sharing of extended benefits because these organizations do not pay federal unemployment taxes.

The proposed legislation contains five changes to Missouri EB statutes:

First, the paragraphs in Section 288.062.1(2) are restructured to make the statute read more clearly.

Second, the proposed legislation would remove the hard trigger "off" date that was contained in HB 1544 (2010) and would replace it with August 28, 2013. This change would allow Missouri to remain triggered "on" through August 28, 2013 or during periods of 100% federal funding of EB, whichever should occur first. The Tax Relief, Unemployment Insurance Re-authorization, and Job Creation Act of 2010, Public Law 111-312, extended the 100% federal reimbursement of EB through January 7, 2012. The language assures that extended benefits will end when the 100% federal reimbursement ends. If this change is not enacted, the DES estimates that it will not be able to pay \$105 million in EB to otherwise eligible individuals.

Third, the proposed legislation modifies the conditions under which Missouri is triggered "on." Current law determines whether Missouri is triggered "on" based on the insured unemployment rate (IUR) or the total unemployment rate (TUR). Under the TUR trigger, Missouri is triggered "on" when the most recent 3-month TUR average equals or exceeds 6.5% and the most recent 3-month TUR average equals or exceeds 110% of such average for either or both of the

ASSUMPTION (continued)

corresponding 3-month periods ending in the 2 preceding calendar years ("look-back" provision). The Tax Relief, Unemployment Insurance Re-authorization, and Job Creation Act of 2010, Public Law 111-312, permits states to temporarily modify the TUR trigger "look-back" period. In the proposed legislation, 288.062.1(2)(b)c modifies the TUR trigger "look-back" period from 2 years to 3 years.

If the "look-back" period is not temporarily modified, and assuming the sunset date is removed or extended, the DES estimates Missouri will trigger "off" EB in April 2011, even though the federal government is providing 100% reimbursement to states for EB costs.

Fourth, the proposed legislation corrects a cross-reference in Section 288.062.1(3)(b). This cross-reference correction is needed due to the restructuring of the paragraphs in Section 288.062.1(2) (see first change).

Fifth, the proposed legislation corrects a cross-reference in Section 288.062.12(4)(b). This cross-reference correction is needed due to the restructuring of the paragraphs in Section 288.062.1(2) (see first change).

Oversight assumes the \$105 million to pay extended benefits to the citizens of Missouri, is money that will be drawn down directly from the federal treasury and given to the citizens without being transferred to a state fund. Oversight will not show the receipt of this federal money in the fiscal note.

Officials at the **Office of Administration (OA)** assume the reduction in the number of weeks of available benefits would only slightly reduce our original estimates. Instead of 20 weeks of extended benefits, unemployed former state employees would only be eligible for 16 weeks of extended benefits. Also, the State unemployment benefit would be reduced from 26 weeks to 20 weeks. Because of the nature of unemployment and the associated unknowns, it is difficult to estimate exactly how much, if at all, this change would reduce the amount we would actually spend.

There could be an impact to the State of Missouri since the state is self-insured for UI benefits. These benefits are billed quarterly by DOLIR to OA and paid out of appropriations in House Bill 5. Based on 2010 fourth quarter UI extended benefit charges from DOLIR (the most recent data available), the cost to the state for extended benefits for April through December 2011 are estimated to be \$0 to 630,000. See fiscal year and fund split detail for this estimate in the tables below.

ASSUMPTION (continued)

This estimate is based on the latest quarter of state agency, state hospitals and state school costs, which totaled \$210,000. A range is given for the following reasons:

The number will be somewhat less since some entities included in this number are associated with universities and would be billed separately;

Not all employees currently receiving benefits in the fourth quarter of 2010 will still be receiving benefits under the proposal, and a limited number of additional employees may qualify for extended benefits; and

The estimate does not include other positive economic activity and induced revenues that will occur as a result of Missourians receiving these benefits, offsetting the cost to the state.

Fiscal Year 2011 (April through June benefits)

General Revenue	43.05%	\$0 to \$90,405
Federal Funds	12.68%	\$0 to \$26,628
Other Funds	44.27%	<u>\$0 to \$92,967</u>
		\$0 to \$210,000 cost

Fiscal Year 2012 (July through December benefits)

General Revenue	43.05%	\$0 to \$180,810
Federal Funds	12.68%	\$0 to \$53,256
Other Funds	44.27%	<u>\$0 to \$185,934</u>
		\$0 to \$420,000 cost

These estimates include the Missouri Department of Conservation and Missouri Department of Transportation costs as well.

Officials at the **Missouri Department of Conservation** assume that as a reimbursable employer, the Department would be liable for extended payments for unemployment. The estimate is over \$100,000 per year.

Officials at the **Missouri Department of Transportation** assume that there is no fiscal impact from this proposal

ASSUMPTION (continued)

Section 288.060 Maximum Duration of Regular UI Benefits

Officials at the **Department of Labor and Industrial Relations** assume this bill modifies subsection 4 of section 288.060, changing the maximum duration of regular unemployment benefits from 26 weeks to 20 weeks. The Department estimates this would result in approximately \$108 million savings to Missouri's trust fund each year. These savings would result in a reduction in borrowing in future years.

Reducing the maximum duration of regular unemployment benefits would also reduce the maximum duration of federally-funded extensions. The maximum duration of these federal extensions are based on the maximum duration of regular unemployment benefits. This bill would result in the changes to the maximum duration of the federal programs from 73 weeks to 57.6 weeks.

Under current federal law, no new claims on these federal extension programs will be established after December 31, 2011 and payments will cease on January 7, 2012 for extended benefits and on June 9, 2012 for Emergency Unemployment Compensation (EUC). The Department estimates there would be minimal effect on the EUC and EB benefits received in 2011 as a result of this bill. However, if federal legislation is enacted to extend EUC and EB beyond 2011, this bill would reduce the amount Missourians receive in EUC and EB in 2012 and in all federal extensions hereafter.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
GENERAL REVENUE			
<u>Cost</u> - Office of Administration payment of extended benefits for all state agencies	<u>(\$0 to \$180,810)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(\$0 to \$180,810)</u>	<u>\$0</u>	<u>\$0</u>

OTHER STATE FUNDS

<u>Cost</u> - Office of Administration payment of extended benefits	<u>(\$0 to \$185,934)</u>	<u>\$0</u>	<u>\$0</u>
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ESTIMATED NET EFFECT ON OTHER STATE FUNDS	<u>(\$0 to \$185,934)</u>	<u>\$0</u>	<u>\$0</u>
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SPECIAL EMPLOYMENT SECURITY FUND

<u>Savings</u> - overpayment penalty collected	<u>\$1,411,102</u>	<u>\$1,411,102</u>	<u>\$1,411,102</u>
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ESTIMATED NET EFFECT ON SPECIAL EMPLOYMENT SECURITY FUND	<u>\$1,411,102</u>	<u>\$1,411,102</u>	<u>\$1,411,102</u>
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FEDERAL FUNDS

<u>Cost</u> - Office of Administration payment of extended benefits	<u>(\$0 to \$53,256)</u>	<u>\$0</u>	<u>\$0</u>
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ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>(\$0 to \$53,256)</u>	<u>\$0</u>	<u>\$0</u>
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UNEMPLOYMENT COMPENSATION TRUST FUND

<u>Savings</u> - denied benefits	<u>\$16,600,000</u>	<u>\$16,600,000</u>	<u>\$16,600,000</u>
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<u>Savings</u> - reducing the duration of regular unemployment benefits	<u>\$108,000,000</u>	<u>\$108,000,000</u>	<u>\$108,000,000</u>
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ESTIMATED NET EFFECT ON UNEMPLOYMENT COMPENSATION TRUST FUND	<u>\$124,600,000</u>	<u>\$124,600,000</u>	<u>\$124,600,000</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This act allows the state to continue to receive extended federal unemployment benefit funds until August 28, 2013.

Under current law, the Board of Unemployment Financing is authorized to issue, sell, and deliver credit instruments if they mature within ten years and do not remain outstanding for more than ten years. The ten year requirement is removed from both of these provisions.

Under current law, the division of employment security may contract with consumer reporting agencies to provide employing units with a secure means to provide quarterly wage reports to the division. This substitute requires such a contract.

Claimants are denied unemployment benefits for any week the claimant has an outstanding overpayment penalty.

This act contains an emergency clause.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

L.R. No. 0747-06

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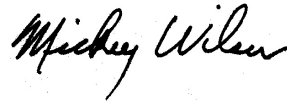
SOURCES OF INFORMATION

Department of Labor and Industrial Relations

Missouri Department of Conservation

Missouri Department of Transportation

Office of Administration

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA

Director

May 2, 2011